

REMARKS / ARGUMENTS

The present application includes pending claims 1-32, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-7, 9, 11-17, 19, 21-27, 29, 31 and 32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USP 7,042,867 ("Whitehill"). Claims 8, 18 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitehill in view of USP 7,433,691 ("White"). Claims 10, 20 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitehill in view of USP 7,200,673 ("Augart"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Whitehill Does Not Anticipate Claims 1-7, 9, 11-17, 19, 21-27, 29, 31 and 32

The Applicant first turns to the rejection of claims 1-7, 9, 11-17, 19, 21-27, 29, 31 and 32 under 35 U.S.C. § 102(e) as being anticipated by Whitehill. With regard to the anticipation rejections under § 102, MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical

invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

Without conceding that Whitehill qualifies as prior art under 35 U.S.C. § 102(e), the Applicant respectfully traverses this rejection as follows.

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Whitehill does not disclose or suggest at least the limitation of “determining, outside of said network device, configuration information for said network device, said configuration information corresponding to said determined location of said network device,” as recited by the Applicant in independent claim 1.

The Office Action states the following:

Regarding claim 1, Whitehill discloses a method for providing location based configuration in a hybrid wired/wireless network, the method comprising:

- identifying a location of a network device (determining the geographic location of user nodes, see col.3, lns.29-43) within the hybrid wired/wireless network (fig.1), the network device being movable within the hybrid wired/wireless network (mobile nodes, see 103 & 102 fig.1);
- determining, outside of the network device, configuration information for the network device (determining configuration information for the mobile node at Access Point or AAA server, see fig.7), the configuration information corresponding to the determined location of the network device (the configuration information is related with the location of the mobile node, see fig.7); and

- communicating the determined configuration information to the network device for providing location based configuration of the network device (messages sent to the mobile node, see fig. ?).

See Office Action at page 2-3. The Office Action relies primarily on Fig. 7 of Whitehill.

Whitehill discloses a system and method for providing security to a wireless network by using a mobile node's location as a parameter for deciding if access is to be given to the node. More specifically, an 802.11 authentication server (e.g., AAA 105 in Fig. 1) can request a wireless router (e.g., 102-1 in Fig. 1) or access point (e.g., 101-1 in Fig. 1) to take time of flight measurements and report either the time of flight or the calculated distance for a remote node (e.g., 103-1 in Fig. 1). The authentication server can then determine if the location of the wireless user/node is within a defined space, such as a building outline, and the authentication server may reject users that are outside the perimeter. See Whitehill at Figs. 3-6 and col. 5, line 59 – col. 6, line 49.

Whitehill, at Fig. 7, simply discloses an exemplary flow of messages between devices during the authorization process. More specifically, as part of the authentication process, the AAA server 105 sends a message to the access point 101 requesting the range information of the mobile node 103-2, such as the location of the wireless router 102-1, and the distance between the wireless router and the mobile device 103-2. The access point 101 receives the message from the AAA server and sends a request to the wireless router 102-1 to determine the distance between the mobile device 103-2 and the wireless router 102-1. The wireless router 102-1 executes

a series of measurements, such as time of flight measurements, and determines the requested distance information, which is then sent to the AAA server 105 via the access point 101. **The AAA server then calculates a position for the mobile node 103-2 and determines if the mobile node is within a secure zone 118-1, that is, within a zone in which network access by mobile nodes is allowed. In this regard, even though Whitehill determines the location of the mobile node 103-2, such location information is simply used to grant or deny access to the wireless network based on the determined location information. The location information is not used for purposes of device configuration. In fact, Whitehill does not disclose that any location-based configuration information is being communicated to the mobile node 103-2 after its location is determined.**

Accordingly, independent claim 1 is not anticipated by Whitehill and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-7, 9, 12-17, 19, 22-27, 29, 31 and 32

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(e) as being anticipated by Whitehill has been overcome and requests that the rejection be withdrawn. Additionally,

claims 2-7, 9, 12-17, 19, 22-27, 29, 31 and 32 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-7, 9, 12-17, 19, 22-27, 29, 31 and 32.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385,

1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

II. The Proposed Combination of Whitehill and White Does Not Render Claims 8, 18 and 28 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being anticipated by Whitehill has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (White) does not overcome the deficiencies of Whitehill, claims 8, 18 and 28 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable based on the above arguments. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 18 and 28.

III. The Proposed Combination of Whitehill and Augart Does Not Render Claims 10, 20 and 30 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being anticipated by

Whitehill has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Augart) does not overcome the deficiencies of Whitehill, claims 10, 20 and 30 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable based on the above arguments. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 10, 20 and 30.

In general, the Office Action makes various statements regarding claims 1-32 and the cited references, which statements are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-32 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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